

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

MAY 20 1997

Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Implementation of the Pay Telephone ) CC Docket No. 96-128  
Reclassification and Compensation )  
Provisions of the Telecommunications Act )  
of 1996 )

**OPPOSITION OF U S WEST COMMUNICATIONS, INC.**

U S WEST Communications, Inc. ("U S WEST"), pursuant to Section 1.106(g)<sup>1</sup> of the Federal Communications Commission's ("Commission") rules, hereby files its opposition to American Public Communications Council's (or "APCC") Petition for Clarification or in the Alternative Reconsideration.<sup>2</sup> APCC's Petition seeks clarification or reconsideration of the Commission's April 4, 1997 Order which clarified and provided local exchange carriers ("LEC") with a limited waiver of the Commission's federal tariff requirements for unbundled payphone features and functions.<sup>3</sup>

<sup>1</sup> 47 C.F.R. § 1.106(g).

<sup>2</sup> Petition of the American Public Communications Council for Clarification or in the Alternative Reconsideration, filed herein May 5, 1997 ("Petition").

<sup>3</sup> In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order, DA 97-678, rel. Apr. 4, 1997 ("Waiver Order"). See also In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, 4 Comm. Reg. (P&F) 938, FCC 96-388, rel. Sep. 20, 1996 ("Payphone Order"); Order on Reconsideration, 5 Comm. Reg. (P&F) 321, FCC 96-439, rel. Nov.

In its Petition, APCC asserts that U S WEST and other Regional Bell Operating Companies ("RBOC") are refusing to comply with the requirements of the Order on Reconsideration and the Waiver Order by failing to file federal tariffs for unbundled payphone specific features and functions.<sup>4</sup> APCC holds up U S WEST's withdrawal of its CUSTOMNET tariff as an example of noncompliant behavior. APCC asserts that CUSTOMNET is a "payphone-specific" service and that U S WEST has violated the requirements of the Waiver Order by withdrawing CUSTOMNET.<sup>5</sup> Neither assertion is true. As U S WEST demonstrates below, CUSTOMNET is not a "payphone-specific" service. Furthermore, U S WEST withdrew its interstate CUSTOMNET tariff filing with full knowledge and assent of the Competitive Pricing Division.<sup>6</sup>

I. APCC'S PROPOSED CLARIFICATION OF THE TERM "PAYPHONE-SPECIFIC" FEATURES AND FUNCTIONS IS OVERLY BROAD

In its Waiver Order, the Commission clarified that "the requirement to file federal tariffs applies only to payphone-specific, network-based, unbundled features and functions provided to others or taken by a LEC's operations[.]"<sup>7</sup> The Commission "[did] not include in this federal tariffing requirement features and

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8, 1996 ("Order on Reconsideration"), appeal pending sub nom. Illinois Public Telecommunications Assn. v. FCC, No. 96-1394 (D.C. Cir., filed Oct. 17, 1996).

<sup>4</sup> APCC's claim is premature in that the Commission's Waiver Order allowed LECs 45 days (i.e., until May 19, 1997) to file federal tariffs for payphone specific functions and features. Waiver Order ¶ 1.

<sup>5</sup> Petition at 4-6.

<sup>6</sup> CUSTOMNET continues to be available in all of U S WEST's intrastate tariffs on an unrestricted basis. See U S WEST's Application No. 245, filed Apr. 11, 1997.

<sup>7</sup> Waiver Order ¶ 18.

functions that are generally available to all local exchange customers and are only incidental to payphone service, such as touchtone services and various custom calling features.”<sup>8</sup> The Commission’s clarification represented a significant narrowing of the federal tariffing requirement.<sup>9</sup>

In seeking clarification or reconsideration of the federal tariffing requirement, APCC asks the Commission to clarify that the term “payphone-specific” features includes “any unbundled feature that payphone service providers (“PSPs”) may require or find useful in configuring [their payphone] service and are not limited to features offered exclusively or predominately to PSPs.”<sup>10</sup> U S WEST opposes APCC’s request as unreasonably broad and contrary to the public interest. It is impossible to classify APCC’s request as a clarification of the Waiver Order. It is a request for reconsideration and wholesale abandonment of the Commission’s clarification in its Waiver Order. APCC’s proposed definition would require LECs to file federal tariffs for virtually every intrastate network-based service that PSPs use or may use in the future. This is neither reasonable nor necessary to achieve the competitive goals of Section 276 of the Act<sup>11</sup> and the Commission’s Payphone

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<sup>8</sup> Id.

<sup>9</sup> The Commission’s Order on Reconsideration appeared to require LECs to file federal tariffs for any unbundled feature or function used by a LEC to provide payphone service. (See Order on Reconsideration, 5 Comm. Reg. at 365 ¶¶ 162-163). Thus, a literal reading of the Order on Reconsideration would require LECs to file federal tariffs for all intrastate services, other than PAL lines, that a LEC uses in its payphone operations. U S WEST originally filed its federal CUSTOMNET tariff in an attempt to comply with this requirement.

<sup>10</sup> Petition at 3 (footnote omitted).

<sup>11</sup> 47 U.S.C. § 276.

Order.

II. CUSTOMNET IS NOT A "PAYPHONE-SPECIFIC SERVICE"

U S WEST filed a federal tariff for CUSTOMNET service not because it believed that CUSTOMNET was a "payphone-specific" service – but because it was used by U S WEST's payphone operation.<sup>12</sup> With the Commission's clarification of LEC federal tariffing requirements in its Waiver Order, U S WEST filed a request for special permission to withdraw CUSTOMNET.<sup>13</sup> In this Application, U S WEST fully explained why it was withdrawing CUSTOMNET from its Access Services tariff. The Commission granted U S WEST's Application<sup>14</sup> and U S WEST withdrew its CUSTOMNET tariff filing on April 14, 1997.<sup>15</sup> U S WEST took this action with full knowledge of the Commission. U S WEST believed then and believes now that it is in full compliance with the Commission's Waiver Order.

U S WEST does not deny that CUSTOMNET is a call screening service. However, this service is "generally available to all local exchange customers" and customers other than PSPs account for approximately 70 percent of the lines that subscribe to CUSTOMNET. CUSTOMNET is primarily a business service that is targeted at hotels, hospitals, universities, and other business establishments. Clearly, it is not a "payphone-specific" service.

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<sup>12</sup> While U S WEST's payphone operation uses CUSTOMNET, its use is limited to approximately 20 percent of U S WEST's payphone lines.

<sup>13</sup> See Application No. 245.

<sup>14</sup> Special Permission No. 97-125.

<sup>15</sup> See U S WEST Transmittal No. 836 filed April 14, 1997, effective April 15, 1997.

III. U S WEST CONTINUES TO HAVE NUMEROUS CALL BLOCKING AND CALL SCREENING SERVICES AVAILABLE TO PSPS IN ITS FEDERAL TARIFF

APCC implies that with the withdrawal of CUSTOMNET, U S WEST will not have any call screening or call blocking services tariffed at the federal level. This is not true. APCC conveniently ignores the fact that U S WEST has numerous call screening and call blocking services available to PSPs and other customers in its federal tariff.<sup>16</sup> For example, U S WEST provides the following services under federal tariff: Billed Number Screening, Call Blocking for 10XXX1+/10XXX011+, and International Blocking.<sup>17</sup> These services give PSPs a wide variety of call screening and call blocking features should they choose to purchase them from U S WEST.<sup>18</sup>

IV. CONCLUSION

The APCC is not asking for clarification; it is asking for reconsideration of both the Commission's Waiver Order and Order on Reconsideration. The Commission should reject APCC's attempt to unduly expand the Payphone Order's

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<sup>16</sup> U S WEST also has tariffed Answer Supervision-Lineside in its Federal Access Services Tariff.

<sup>17</sup> U S WEST's Tariff F.C.C. No. 5, Sections 13.3.19.B., D. and 13.3.12.

<sup>18</sup> Furthermore, many of the "smart" phones currently available to PSPs incorporate many of these functions in their internal hardware and software. Future generations of "smart" payphones will incorporate even greater functionality.

federal tariffing requirement. APCC's arguments contain no new content; they are just packaged differently. As such, APCC's Petition should be denied.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By: James T. Hannon  
James T. Hannon  
Suite 700  
1020 19th Street, N.W.  
Washington, DC 20036  
(303) 672-2860

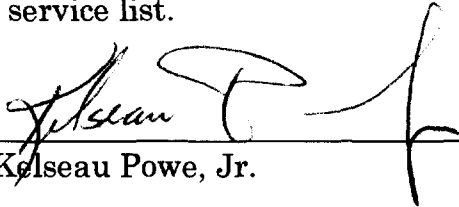
Its Attorney

Of Counsel,  
Dan L. Poole

May 20, 1997

## **CERTIFICATE OF SERVICE**

I, Kelseau Powe, Jr., do hereby certify that on this 20th day of May, 1997, I have caused a copy of the foregoing **OPPOSITION OF U S WEST COMMUNICATIONS, INC.** to be served via first-class U.S. Mail, postage-prepaid, upon the persons listed on the attached service list.

  
Kelseau Powe, Jr.

**\*Via Hand-Delivery**

\_\_\_\_\_  
(CC96128G.COS/JH/lh)

**\*James H. Quello**  
Federal Communications Commission  
Room 802  
1919 M Street, N.W.  
Washington, DC 20554

**\*Reed E. Hundt**  
Federal Communications Commission  
Room 814  
1919 M Street, N.W.  
Washington, DC 20554

**\*Susan P. Ness**  
Federal Communications Commission  
Room 832  
1919 M Street, N.W.  
Washington, DC 20554

**\*Rachelle B. Chong**  
Federal Communications Commission  
Room 844  
1919 M Street, N.W.  
Washington, DC 20554

**\*Regina M. Keeney**  
Federal Communications Commission  
Room 500  
1919 M Street, N.W.  
Washington, DC 20554

**\*Michael Carowitz**  
Federal Communications Commission  
Room 6008  
2025 M Street, N.W.  
Washington, DC 20554

**\*Robert W. Spangler**  
Federal Communications Commission  
Room 6206  
2025 M Street, N.W.  
Washington, DC 20554

**\*John Muleta**  
Federal Communications Commission  
Room 6008  
2025 M Street, N.W.  
Washington, DC 20554

**\*Mary Beth Richards**  
Federal Communications Commission  
Room 500  
1919 M Street, N.W.  
Washington, DC 20554

**\*Timothy Peterson**  
Federal Communications Commission  
Room 500  
1919 M Street, N.W.  
Washington, DC 20554



\*Janice M. Myles  
Federal Communications Commission  
Room 544  
1919 M Street, N.W.  
Washington, DC 20554

\*International Transcription  
Services, Inc.  
Suite 140  
2100 M Street, N.W.  
Washington, DC 20037

Dana Frix  
EXCEL  
Pamela S. Arluk  
Swidler & Berlin, Chartered  
Suite 300  
3000 K Street, N.W.  
Washington, DC 20007

TELCO

Mary McDermott  
Linda Kent  
Charles D. Cosson  
United States Telephone Association  
Suite 600  
1401 H Street, N.W.  
Washington, DC 20005

(2 Copies)

Robert M. Lynch  
Durward D. Dupre  
Mary W. Marks  
J. Paul Walters, Jr.  
Southwestern Bell Telephone Company  
Room 3536  
One Bell Center  
St. Louis, MO 63101

Enrico C. Soriano  
Wendy I. Kirchick  
Reed, Smith, Shaw & McClay  
Suite 1100-East Tower  
1301 K Street, N.W.  
Washington, DC 20005-3317  
(2 Copies)

TIC

Mark J. Golden  
Personal Communications Industry  
Association  
Suite 700  
500 Montgomery Street  
Alexandria, VA 22314-1561

Katherine M. Holden  
Stephen J. Rosen  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, DC 20006

PCIA

Mitchell F. Brecher  
Fleischman and Walsh, LLP  
Suite 600  
1400 16th Street, N.W.  
Washington, DC 20036

ONCOR

Donald J. Elardo  
Mary J. Sisak  
MCI Telecommunications Corporation  
1801 Pennsylvania Avenue, N.W.  
Washington, DC 20006

E. Ashton Johnston  
Paul, Hastings, Janofsky & Walker  
10th Floor  
1299 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2400

ARCH

Albert H. Kramer  
Robert F. Aldrich  
David M. Janas  
Dickstein, Shapiro, Morin & Oshinsky, LLP  
Suite 800  
2101 L Street, N.W.  
Washington, DC 20037  
(3 Copies)

ICSP

APPC

GAPC

M. Robert Sutherland  
Theodore R. Kingsley  
BellSouth Corporation  
Suite 1700  
1155 Peachtree Street, N.E.  
Atlanta, GA 30309-3610

Alan N. Baker  
Ameritech Operating Companies  
Room 4H84  
2000 West Ameritech Center Drive  
Hoffman Estates, IL 60196-1025

Terrence J. Buda  
Veronica A. Smith  
John F. Povilaitis  
Pennsylvania Public Utility Commission  
POB 3265  
Harrisburg, PA 17105-3265

Marsha Smith  
Ralph Nelson  
Dennis S. Hansen  
Idaho Public Utilities Commission  
472 West Washington  
Boise, ID 83720-0074

Blossom A. Peretz  
New Jersey Division of the  
Ratepayer Advocate  
11th Floor  
31 Clinton Street  
Newark, NJ 07101

Ernest G. Johnson  
Cece Wood  
Maribeth D. Snapp  
Oklahoma Corporation Commission  
POB 25000-2000  
Oklahoma City, OK 73152-2000

W. Dewey Clower  
NATSO, Inc.  
Suite 801  
1199 North Fairfax  
POB 1285  
Alexandria, VA 22313-1285

Teresa Marrero  
Teleport Communications Group, Inc.  
Suite 300  
Two Teleport Drive  
Staten Island, NY 10311

Kevin Maher  
American Hotel & Motel Association  
1201 New York Avenue, N.W.  
Washington, DC 20005-3917

Jeffrey P. Fegan  
Dallas/Fort Worth International Airport  
3200 East Airfield Drive  
POD 619428  
DFW Airport, TX 75261-9428

Cynthia B. Miller  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Betty D. Montgomery  
Ann E. Henkener  
Public Utilities Commission  
of Ohio  
180 East Broad Street  
Columbus, OH 83266-0573

Charles M. Barclay  
American Association of Airport Executives  
4212 King Street  
Alexandria, VA 22302

Derek Blake  
American Airlines Admirals Club  
POB 619616  
MD 2645  
DFW Airport, TX 75261-9616

Michael K. Kellogg  
Kellogg, Huber, Hansen, Todd  
& Evans, PLLC  
Suite 1000 West  
1301 K Street, N.W.  
Washington, DC 20005-3317

6 RBOCs

Thomas K. Crowe  
Law Offices of Thomas K. Crowe, PC  
Suite 800  
2300 M Street, N.W.  
Washington, DC 20037

EXCEL

J. Christopher Dance  
Kerry Tassopoulos  
Excel Telecommunications, Inc.  
20th Floor  
8750 North Central Expressway  
Dallas, TX 75231

C. Douglas McKeever  
Communications Central, Inc.  
Suite 118  
1150 Northmeadow Parkway  
Roswell, GA 30076

John M. Bisinger  
AHA TelePLAN  
Suite 2850  
515 North State Street  
Chicago, IL 60610

Actel, Inc.  
POB 391  
Cedar Knolls, NJ 07927

Bryan Peterson  
KOA Kampgrounds of America, Inc.  
POB 30558  
Billings, MT 59114

Joseph Kelley  
Flying J Inc.  
POB 678  
Brigham City, UT 84302-0678

Butzel Long  
William R. Ralls  
Leland R. Rosier  
Michigan Pay Telephone Association  
118 West Ottawa Street  
Lansing, MI 48933

Glenn Stehle  
Call West Communications, Inc.  
701 North St. Mary's  
San Antonio, TX 78205

Susan Drombetta  
Scherers Communications Group, Inc.  
575 Scherers Court  
Worthington, OH 43085

James A. Thelen  
The Cleveland Clinic Foundation  
9500 Euclid Avenue  
Cleveland, OH 44195

John D. Solomon  
City of Kansas City  
601 Brasilia Avenue  
POB 20047  
Kansas City, MO 64195

Robert E. Cohn  
Alexander Van der Bellen  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N.W.  
Washington, DC 20037

KANSAS CITY

David Gorin  
National Association of RV Parks  
& Campgrounds  
Suite 201  
8605 Westwood Center Drive  
Vienna, VA 22182-2231

Newton M. Galloway  
Georgia Public Communications Association  
113 Concord Street  
Zebulon, GA 30295

C. Douglas McKeever  
InVision Telecom, Inc.  
Suite 118  
1150 Northmeadow Parkway  
Roswell, GA 30076

Hank Smith  
Independent Technologies, Inc.  
11422 Miracle Hills Drive  
Omaha, NE 68454

Willard C. Reine  
Midwest Independent Coin  
Payphone Association  
314 East High Street  
Jefferson City, MO 65101

G. Slaby  
Truckstops of America  
Suite 300  
24601 Center Ridge Road  
Westlake, OH 44145-5634

John F. Beach  
South Carolina Public Communications  
Association  
Suite 1207  
1400 Main Street  
POB 444  
Columbia, SC 29202-0444

Clifton Craig  
South Carolina Public Communications  
Association  
112 South Center Road  
Darlington, SC 29532

Rogert B. Skrypczak for the Board  
of Directors  
Wisconsin Public Communications  
Association  
Suite B  
W6246 County - Trunk BB  
Appleton, WI 54915

E. M. Thurmond  
Yuma International Airport  
2191 East 32nd Street  
Yuma, AZ 85365

Charles H. Kennedy  
Morrison & Foerster  
2000 Pennsylvania Avenue, N.W.  
Washington, DC 20006-1888

ACI-NA

Patricia A. Hahn  
Airports Council International -  
North America  
Suite 500  
1775 K Street, N.W.  
Washington, DC 20006

Robert M. Brill  
Law Offices of Robert M. Brill  
12th Floor  
757 3rd Avenue  
New York, NY 10017

Thomas J. MacBride, Jr.  
Kathryn A. Fugere  
Goodin, MacBride, Squeri,  
Schlotz & Ritchie, LLP  
Suite 900  
505 Sansome Street  
San Francisco, CA 94111

CAOLDT

Catherine Reiss Sloan  
Richard C. Fruchterman  
Richard S. Whitt  
LDDS Communications, Inc.  
Suite 400  
1825 Eye Street, N.W.  
Washington, DC 20036

Douglas F. Brent  
LDDS WorldCom  
Suite 700  
9300 Shelbyville Road  
Louisville, KY 40222

Glenn B. Manishin  
Michael D. Specht  
Blumenfeld & Cohen  
Suite 700  
1615 M Street, N.W.  
Washington, DC 20036

ITA

David J. Gudino  
GTE Service Corporation  
Suite 1200  
1850 M Street, N.W.  
Washington, DC 20036

Richard McKenna  
GTE Service Corporation  
HQE03J36  
POB 152092  
Irving, TX 71015-2092

Michael W. Ward  
John F. Ward, Jr.  
Henry T. Kelly  
O'Keefe, Ashenden, Lyons and Ward  
Suite 4100  
30 North LaSalle Street  
Chicago, IL 60602

IPT

Pat Wood, III  
Robert W. Gee  
Judy Walsh  
Public Utility Commission of Texas  
7800 Shoal Creek Boulevard  
Austin, TX 78757

Reginald R. Bernard  
SDN Users Association, Inc.  
POB 4014  
Bridgewater, NJ 08807

Leon M. Kestenbaum  
Jay C. Keithley  
H. Richard Juhnke  
Sprint Communications Company, Inc.  
Suite 1100  
1850 M Street, N.W.  
Washington, DC 20036

Charles C. Hunter  
Hunter & Mow, PC  
Suite 701  
1620 I Street, N.W.  
Washington, DC 20006

TR

Virginia State Corporation Commission  
Division of Communications  
9th Floor  
1300 East Main Street  
POB 1197  
Richmond, VA 23218

Mark C. Rosenblum  
Peter H. Jacoby  
Richard H. Rubin  
AT&T Corp.  
Room 3244J1  
295 North Maple Avenue  
Basking Ridge, NJ 07920

Martin A. Mattes  
Graham & James  
Suite 300  
One Maritime Plaza  
San Francisco, CA 94111

CPA

Rachel J. Rothstein  
Cable & Wireless, Inc.  
8219 Leesburg Pike  
Vienna, VA 22182

Genevieve Morelli  
Competitive Telecommunications Association  
Suite 800  
1900 M Street, N.W.  
Washington, DC 20036

Judith St. Ledger-Roty  
Danny E. Adams  
Steven A. Augustino  
Kelley, Drye & Warren, LLP  
Suite 500  
1200 19th Street, N.W.  
Washington, DC 20036

PNI

Michael J. Shortley, III  
Frontier Corporation  
180 South Clinton Avenue  
Rochester, NY 14646

Roy L. Morris  
Frontier Corporation  
Suite 500  
1990 M Street, N.W.  
Washington, DC 20036

Robert C. Caprye  
GVNW, Inc./Management  
7125 S.W. Hampton Street  
Portland, OR 97223

William H. Smith, Jr.  
Mary J. Street  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, IA 50319

Sandy Ibaugh  
Indiana Utility Regulatory Commission  
901 State Office Building  
Indianapolis, IN 46204

Joel B. Shifman  
Maine Public Utilities Commission  
House Station No. 18  
242 State Street  
Augusta, ME 04333-0018

E. Barclay Jackson  
New Hampshire Public Utilities Commission  
8 Old Suncook Road  
Concord, NH 03301-7310

David Kaufman  
New Mexico State Corporation Commission  
POD 1269  
Santa Fe, NM 87504-1269

Richard A. Askoff  
Donna A. DiMartino  
National Exchange Carrier  
Association  
100 South Jefferson Road  
Whippany, NJ 07981

David Cosson  
Pamela Sowar Fusting  
National Telephone Cooperative Association  
2626 Pennsylvania Avenue, N.W.  
Washington, DC 20037



Mary E. Burgess  
New York State Department  
of Public Service  
20th Floor  
Three Empire State Plaza  
Albany, NY 12223

Ann Cassidy  
One Call Communications, Inc.  
801 Congressional Boulevard  
Carmel, IN 46032

Peter Arth, Jr.  
Edward W. O'Neill  
Patrick S. Berdge  
Public Utilities Commission  
of the State of California  
505 Van Ness Avenue  
San Francisco, CA 94102

Eric L. Bernthal  
Michael S. Wroblewski  
Latham & Watkins  
Suite 1300  
1001 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2505

PTCI

Bruce W. Renard  
Peoples Telephone Company, Inc.  
2300 N.W. 89th Place  
Miami, FL 33172

Joe D. Edge  
Sue W. Bladek  
Drinker, Biddle & Reath  
901 15th Street, N.W.  
Washington, DC 20005

PUERTO RICO